Franchise Tax Board

ANALYSIS OF ORIGINAL BILL

Author:	Maze	Analyst:	Nicole Kwon	Bill Number:	AB 121
Related Bills:	See Legislative History	Telephone:	845-7800	Introduced Date:	January 10, 2007
		Attorney:	Patrick Kusiak	Sponsor:	

SUBJECT: Enterprise Zones/Qualified Wages Credit/Include Qualified Former Foster Care Recipients As Qualified Employee

SUMMARY

This bill would add a new category to the list of qualified employees under the hiring credit for Enterprise Zones (EZs).

PURPOSE OF THE BILL

According to the author's office, the purpose of this bill is to provide financial incentives for employers operating in EZs to hire former foster care recipients.

EFFECTIVE/OPERATIVE DATE

This bill is a tax levy and would be effective immediately upon enactment and operative for taxable years beginning on or after January 1, 2007.

POSITION

Pending.

ANALYSIS

FEDERAL/STATE LAW

Existing federal law provides for the existence of empowerment zones and enterprise communities to provide economic revitalization of distressed urban and rural areas.

Under the Government Code, existing state law allows the governing body of a city or county to apply for designation as an EZ. Using specified criteria, Department of Housing and Community Development (DHCD) designates EZs from the applications received from the governing bodies.

The Revenue and Taxation Code provides an income and franchise tax hiring credit for taxpayers operating in an EZ.

A business located in an EZ is eligible to claim a hiring credit equal to a percentage of wages paid to qualified employees. A qualified employee must be hired after the area is designated as an EZ and meet certain other criteria. At least 90% of the qualified employee's work must be directly related to a trade or business located in the EZ and at least 50% must be performed inside the EZ.

Board Position:			Department Director	Date
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The credit is based on the lesser of the actual hourly wage paid or 150% of the current minimum hourly wage (under special circumstances for the Long Beach EZ, the maximum is 202% of the minimum wage). The amount of the hiring credit must be reduced by any other federal or state jobs tax credits, and the taxpayer's deduction for ordinary and necessary trade or business expenses for the qualified wages must be reduced by the amount of the hiring credit.

Taxpayers operating in an EZ are allowed the hiring credit for employing "qualified employees." "Qualified employees" for EZs are defined by reference to various state and federal public assistance programs.

A taxpayer located in an EZ is allowed a credit of up to 50% of wages paid to "qualified employees." The taxpayer is required to obtain a voucher certificate for each of its "qualified employees." The voucher certificates are issued by the Employment Development Department (EDD) or the local agency (within the same EZ as the workplace of the employee) familiar with the public assistance statutes.

Existing state law allows local governments administering an EZ to issue vouchering certificates for the hiring credit. The voucher certificate indicates that the employee is qualified for, or is receiving, any of the specified forms of public assistance and thus is a "qualified employee" for purposes of the hiring credit. DHCD is authorized to develop regulations that govern the issuance of vouchering certificates by these local governments.

Taxpayers that claim the hiring credit are required to retain a copy of the voucher certificate for each of its "qualified employees." Upon the request of the Franchise Tax Board, the taxpayer is required to provide the voucher certificate for purposes of verifying the hiring credit claimed by the taxpayer.

THIS BILL

This bill would add a "qualified former foster care recipient" to the list of qualified employees that qualify an employee to claim the hiring credit in an EZ.

This bill would define a "qualified former foster care recipient" to mean an individual who is certified by the local designated agency to have met both of the following requirements:
(1) attained age 17, but not age 25, on the hiring date; and (2) before attaining the age of 18, has been either a recipient of foster care maintenance payments under a state plan approved under the Social Security Act, or in foster care under the responsibility of a state.

IMPLEMENTATION CONSIDERATIONS

This bill would raise the following implementation considerations.

This bill would require a qualified former foster care recipient to be certified by the local designated agency. Currently, the taxpayer is required to obtain a voucher certificate for each of its "qualified employees." The voucher certificates are issued by EDD or the local agency (within the same EZ as the workplace of the employee) familiar with the public assistance statutes. The author's office may want to remove the provision that would require a qualified former foster care recipient to be certified by the local designated agency because there are already identified agencies issuing certification for "qualified employees" under the current statute. If the author's intention is to designate an agency other than the ones already provided under the current statute, then it is suggested that the agency be specified in the bill.

TECHNICAL CONSIDERATIONS

The reference to 42 U.S.C. Sec. 301 is for social security benefits for old age only. On page 5, line 29 and page 12, line 24, add “et. Seq.” after “42 U.S.C. Sec. 301” to clarify that the benefit includes more than just old age.

Page 10, lines 23 to 25 and page 19, lines 27 to 28, under subdivision (k), replace the language with “The amendments made to this section by Chapter 609 of the statutes of 1997 shall apply to taxable years beginning on or after January 1, 1997.”

LEGISLATIVE HISTORY

AB 2709 (Maze, 2005/2006) was identical to this bill. AB 2709 did not pass the Senate Revenue and Taxation Committee.

AB 1766 (Dymally, 2005/2006) and SB 1008 (Ducheny and Machado, 2005/2006) would have revised and clarified the definition for certain qualified employees. AB 1766 did not pass the third reading on the Senate floor; SB 1008 did not pass the Assembly Jobs, Economic Development, and the Economy Committee.

AB 2809 (Assembly Revenue & Taxation Committee, Stats. 1998, Ch. 1039) made changes to the economic development areas’ hiring credits by clarifying that the reemployment of seasonal employees shall not constitute commencement of employment. AB 2809 also provided that the recapture rules apply to credits taken for wages paid to any seasonal employee who is not rehired in the applicable subsequent seasons.

AB 3 (Baca, Stats. 1998, Ch. 1012) changed the hiring credit definition of “qualified disadvantaged individual.”

SB 2023 (Costa, Stats. 1996, Ch. 955) enacted the Enterprise and Employment Zone Act of 1996 to provide for the designation of economic and employment zones by the Trade and Commerce Agency.

FISCAL IMPACT

This bill would not significantly impact the department’s costs.

ECONOMIC IMPACT

Revenue Estimate

Based on data and assumptions discussed below, the Personal Income Tax and Corporation Tax revenue loss from this bill would be as follows:

Estimated Revenue Impact Of AB 121 Effective On Or After January 1, 2007 Enactment Assumed After June 30, 2007 ($ in Millions)			
	2007-08	2008-09	2009-10
Former Foster Care Recipients	-$5	-$6	-$5

This bill does not consider the possible changes in employment, personal income, or gross state product that could result from this measure.

Revenue Discussion

Based on 2006 data from the Department of Social Services, about 49,300 people aged 17 through 24 are former foster care recipients. This estimate assumes that 2/3 of these people are employed. Statewide, about 6% of employees work for taxpayers claiming EZ credits. This estimate assumes the same proportion of former foster care recipients (6%) work for employers claiming EZ credits. It is also assumed that ½ of the workers qualified under this bill are already being claimed by their employer under other EZ criteria. Thus, the number of new EZ credits generated by this bill would be approximately 985 (49,300 x 2/3 x 6% x 50% = 985).

Assuming an average of about $6,000 in hiring credits per qualified employee per year, the addition of former foster care recipients would cause an increase in credits of about $6 million (985 x $6,000) a year. Estimates presented in the table above have been adjusted to reflect fiscal year impacts.

This estimate assumes that the number of people who received foster care outside of California, then moved to California, is equal to the number of California foster care recipients that have moved out of state.

LEGISLATIVE STAFF CONTACT

Nicole Kwon
Franchise Tax Board
845-7800
haeyoung.kwon@ftb.ca.gov

Brian Putler
Franchise Tax Board
845-6333
brian.putler@ftb.ca.gov